

to one skilled in the art at the time the application was filed that the Applicants had possession of the claimed invention. Applicants respectfully disagree.

In regard to claim 34, the Examiner states it is not understandable what is meant by "returning data received in the message to a performance monitor application." The specification clearly describes on page 22, lines 18-25 that a performance monitor application generates a selection screen on a monitor that allows the user to select events for which the user desires to compile data. The specification also clearly describes one embodiment where data that is collected can be dispatched to the user to be displayed on visual monitor 306 using the selection screen of the performance monitor application. See page 24, lines 3-13. Thus, the specification clearly describes the sending of data to a performance monitoring application such that one of ordinary skill in the art would understand that the Applicant had possession of the claimed invention.

In regard to claim 35, the Examiner states that he does not understand what is meant by "an operating systems for specific module." An operating systems specific module is illustrated in Figure 3 and the operating system specific module (OSM) is clearly described in the specification to be, in one embodiment, post processing software for the I₂O architecture. See page 9, lines 23-27. In one embodiment, the OSM gathers data from a driver. The OSM also relays messages between the RTOS and the performance monitoring application. See Figure 4 and page 23, lines 6-16 and page 24, lines 10-13. Thus, one of ordinary skill in the art would understand what is meant by an operating system specific module when reading claim 35 in light of the specification. Accordingly, reconsideration and withdrawal of the rejections of claims 34 and 35 are requested.

II. Claims Rejected Under 35 U.S.C. § 103

Claims 1-3, 5-11, 15, and 22-42 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,381,656 issued to Shankman (hereinafter "Shankman") in view of U.S. Patent No. 6,134,619 issued to Futral, et al (hereinafter "Futral"). Applicants respectfully disagree for the following reasons.

In order to establish a *prima facie* case of obviousness, the Examiner must show that the cited references combined teach or suggest each of the elements of the claims. In regard to Shankman, the Applicants submit herewith a Declaration signed by Susan C. Bobholz under 37 C.F.R. § 1.131 stating that the Applicants conceived of the present invention prior to the filing date of Shankman and diligently pursued reducing the inventions to practice up until the time of filing the present application. Thus, Applicants believe that Shankman does not constitute prior art against the present application.

The Examiner relies on Shankman as a primary reference in the obviousness rejection of claims 1-3, 5-11, 15 and 22-42. The Examiner relies on Futral only to teach "translating the message request into perimeters that are accessible by the RTOS." See page 3 of Paper No. 13. Thus, the Examiner has not indicated any part of Futral that teaches or suggests each of the elements of claims 1-3, 5-11, 15, and 22-42. Therefore, the Examiner has not established a *prima facie* case of obviousness for these claims. Accordingly, reconsideration and withdrawal of the obviousness rejection of claims 1-3, 5-11, 15 and 22-42 are requested.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending, namely claims 1-3, 5-11, 15 and 22-42 patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207 3800.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

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